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Central Administrative Tribunal  
Principal Bench

O.A.No.1189/98

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 6th day of January, 1999

Km. Sunita Samantray  
aged about 21 years  
d/o Late Smt. Dhirawati  
r/o WZ-82, Santgarh  
Tilak Nagar  
New Delhi - 110 018.

... Applicant

(By Ms. Asha Tiwari, Advocate)

Vs.

1. Union of India through  
Chief Secretary to the  
Govt. of India,  
M/o Defence  
New Delhi.
2. The Commandant  
Central Ordnance Depot.  
Delhi - 110 010. .... Respondents

(By Shri Gajender Giri, Advocate)

O R D E R (Oral)

The applicant has sought compassionate appointment on the death of her mother on 6.12.1995 while she was in Central Ordnance Depot as Lower Division Clerk. The applicant submits that though she was called for selection to the post of Lower Division Clerk in July, 1996, the outcome of that selection has not been intimated to the applicant. The respondents in their reply have stated that the applicant had been given three chances for appointment against a Group 'C' post but she did not achieve the requisite merit position in the context of available vacancies and therefore could not be granted compassionate appointment. They also say that only such persons <sup>who</sup> obtained merit positions as would entitle them to appointment are informed the results of the selection posts.

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2. I have heard the counsel. The learned counsel for the applicant submits that if the respondents do not have adequate number of Group 'C' posts, the applicant could be considered for appointment to a Group 'D' post as her financial condition is extremely precarious since she has to support her grand mother and a younger sister. The learned counsel for the applicant also relies on the judgement of the Supreme Court in Director of Education (Secondary) and Another Vs. Pushpendra Kumar and Others, AIR 1998 SC 2230 wherein the Supreme Court has observed as follows:

"Having regard to the fact that there are large number of posts falling in Class IV and appointment on these posts is made by direct recruitment, the object underlying the provision would be achieved if in case of non-availability of post in Class III the dependent is appointed on a Class IV post in the institution in which the deceased employee was employed and for that purpose a supernumerary post in Class IV may be created."

3. Keeping in view the above observations of the Hon'ble Supreme Court, I dispose of this OA with a direction to the respondents to consider the case of the applicant for appointment against a Group 'D' Post. The respondents will also intimate the result of this consideration to the applicant within a period of one month from the date of receipt of a copy of this order. No order as to costs.

*R.K.Ahooja*  
(R.K.Ahooja)  
Member(A)

/rao/